

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

PATRICIA FINDLEY,)	
)	
Plaintiff,)	
)	
v.)	No. 04-4025-CV-C-FJG-SSA
)	
JO ANNE B. BARNHART,)	
Commissioner, Social Security)	
Administration)	
)	
Defendant.)	

ORDER

Currently pending before the Court is plaintiff's Motion for Attorney Fees Pursuant to section 206(b), 42 U.S.C. § 406(b) of the Social Security Act (Doc. # 14).

Plaintiff has requested reimbursement in the amount of \$8,918.75 for 15.75 hours of court related work in this case. Plaintiff previously applied for and was granted \$1,836.75 under the Equal Access to Justice Act ("EAJA"). The letter attached to plaintiff's counsel's motion indicates that \$14,218.75 was withheld from plaintiff's past due benefits for the possible payment of attorney fees. Plaintiff's counsel recognizes that if fees are awarded under 42 U.S.C. § 406(b), the lesser of either the EAJA fees or the fees awarded pursuant to section 406(b) must be refunded to plaintiff. The defendant does not object to an award of \$8,918.75 under Section 406(b), but objects only to plaintiff's counsel's request that the EAJA award be deducted from the 406(b) award. Counsel for the defendant states that such a deduction is not called for in the statute.

Accordingly, it is hereby **ORDERED** that plaintiff's application for attorney fees is

hereby **GRANTED** (Docs. # 14) and counsel shall be awarded \$8,918.75. Plaintiff's counsel shall refund to plaintiff the amount of \$1,836.75, which represents the previously awarded EAJA fee.

Date: _____
Kansas City, Missouri

S/ FERNANDO J. GAITAN JR.
Fernando J. Gaitan Jr.
United States District Judge